

1 US GOVERNMENT AT THE BORDER

CBP CPSC WORKING GROUP

REPORT FOR PUBLIC DISTRIBUTION & COMMENTS

April 1, 2015

U.S. Customs & Border Protection and the Consumer Product Safety Commission hosted two public webinars, on March 12 and March 26th. An interim CBP/CPSC Working Group was formed and held their first meeting on March 19th. On March 24, the 14th Term COAC members were announced by Commissioner Kerlikowske in his “State of the Agency” address, held at the U.S. Chamber of Commerce. A second working group meeting was held on March 24th.

This report is intended to convey the work that has been done by the CBP/CPSC Working Group to the general trade community and to request the trade’s comments and feedback. The report does not review the information imparted by CPSC at their public webinars.

March 19 Meeting

The Working Group members received a copy of the trade questions from the CBP/CPSC Webinar on March 12, along with a recap of the 6 ‘homework’ assignments.

A brief discussion as to the purpose of the working group was held. A draft statement of work was read and will be perfected when the 14th term COAC” is finally established.

Some of the initial questions the Working Group had was about the data requirements. What information does CPSC use for targeting now? We believe they have access to entry data through the CBP Targeting Center and the Web Interoperability System.

Comments were made suggesting that Foreign Manufacture seems to be a key element that is looked at for targeting/risk. Also, repeat offenders on counterfeit and import safety issues. CPSC does provide data on when someone is no longer on a CPSC watch list.

What information is CPSC looking to add to what is already being looked at for targeting? Does this information come from the 10 data points on the certificate? What are the important data elements on the Certificate of Compliance? What is it that CPSC would like to have and what is the information they are authorized to request?

It was clear from the webinar that CPSC is open to a Registry concept to allow frequent filers to submit their Certificate of Compliance information in advance to CPSC, and CPSC could then issue a registration number to be reported in the PGA message set.

We reviewed the challenges we have regarding the Certificates of Compliance. Today the CofC’s are paper documents, not electronic data (including test reports and reports being used to create the certificates). Currently testing, testing reports, and any resulting data are managed independently on the importer side and not shared or transmitted by the broker. Importers obtain testing certificates on the products they intend to import, then create Certificates of Compliance (COC). The Importer does

not normally send data directly to the PGA, as they rely on the broker to present the PGA data. There is nothing electronic about the current system – it is all paper, and it will be a heavy lift to translate the paper to data.

In the hybrid system, the importer may have to build the IS systems and process infrastructure to send information to the registry and then receive a message back from the RAM with a unique number and then communicate that to the broker so they can file with CBP. This is a challenge from the process standpoint along with the data elements themselves.

These challenges are compounded when a product has multiple certificates and registrations.

A group member provided a spreadsheet comparing current rule information/data requirements to the proposed rule information/data requirements and attempted to map out where the information comes from. We would like to have CPSC review this document and provide some feedback as to what data elements are key to their risk targeting.

A second group member provided a comparison to the data on the 7501 Entry with the data on the Certificate of Compliance.

March 24 Meeting

The group reviewed the document containing questions to pose to CPSC for the Public Webinar. We need more information about:

1. Data (the what)
2. Registry/Process (the how)

The group also considered the question of how to handle disclaims, and it was suggested that the disclaim process should be similar to the current FDA disclaim process. A member commented that disclaims provide significant challenges for importers. Individuals who handle the classification and entry work are not always 'in the know' as to what is subject to CPSC. There are often two different departments involved – a Quality Assurance department that handles product safety, and a Trade Compliance department that determines import requirements and communicates with the customs broker.

It would be helpful for CPSC to develop a HTS listing that contains a list of the numbers that 'may' be regulated (depending on the product) versus those that 'are regulated' and must be reported.

One member pointed out that as a customs broker, we don't know the details of what is being imported and we would not be in a position to submit a disclaimer on behalf of our customer without some very clear guidance.

We were reminded that the proposed 1110 rule still requires that products exempt from testing must have a Certificate of Compliance document. There are large numbers of HTS in gray areas so it is difficult to determine whether CPSC rules apply.

Another member stated there are vast numbers of products covered by CPSC, with some areas being targeted as high priority. The list includes children's' products (mandatory testing), bicycle standards,

table saw standards, flammable materials standards – the CPSC website does a good job of listing the standards.

It was pointed out that a HTS list must be provided in order to use the PGA message set.

In order to be effective, a lot of education/training is needed for the customs brokers and the importing community.

The working group wants to better understand the flow of information to the registry. How much information would the importer have to input into the registry? This could be very time consuming, so it is important that the registry contain only IMPORTANT data, that is preferably not available somewhere else. There should be an electronic means for the registry to receive data.

CBP asked us to think about what is the impact to the supply chain. We need to provide anecdotal information on the impact as well as the realities of the supply chain. We should focus on the data elements and the registry concept. It was suggested that we provide a recommendation on what areas to test for the pilot.

A member commented that this affects millions of SKU #, entries, line items – we need to understand what information CPSC gets today and what else they need. Numerous working group members have provided information on the impact to the supply chain in their comments on the original proposed 1110 rule.

There is collective frustration on the pilot process. If the end goal is import surveillance, it should be done in the least burdensome way and facilitate legitimate trade. A member provided the following link to the CPSC website that contains a general list of products subject to regulation, mandatory standards and bans:

<http://www.cpsc.gov/en/Regulations-Laws--Standards/Regulations-Mandatory-Standards-Bans>

The working group believes it is very important for CPSC to be directly involved in the WG for the WG to be effective.